

Imagicle Conversational AI Service Agreement.

November 24, 2022

Imagicle spa
Via Fondacci, 272
55054 Massarosa
(LU) Italy

T +39.0584.943232
F +39.0584.943325
E info@imagicle.com
W www.imagicle.com

€ 353.080,00 paid up cap.
VAT ID IT 01715870463
company reg. 01715870463

a company part of Zucchetti spa

Contents

1	Definitions	4
2	Service Description.....	5
3	Use of the service	6
4	Support and Updates.....	6
5	Property ownership.....	6
6	Datacenter and Service availability.....	7
7	Personal Data Processing	7
8	Sub-processors	9
9	Term and Terminations	9
10	Indemnifications	10
11	Warranties and limitations of liability	10
12	Assignment	10
13	Acceptable use policy.....	11
14	Governing law, compulsory arbitration, jurisdiction	11
15	Consent to cookie installation	12
16	Contacts.....	12

PLEASE READ THESE TERMS OF USE BEFORE USING THE IMAGICLE Conversational AI DEFINED HERE UNDER (“THE SERVICE”)

THIS AGREEMENT IS BETWEEN THE CUSTOMER (“CUSTOMER”) AND IMAGICLE SPA (“Imagicle”). If you are accepting on behalf of CUSTOMER, you represent and warrant that:

- you have full legal authority to bind CUSTOMER to this Agreement;
- you have read and understand this Agreement;
- and you agree, on behalf of CUSTOMER, to this Agreement.

BY ACCESSING OR USING THE SERVICE, OR BY ACCEPTING THE TERMS OF THIS AGREEMENT THROUGH AN ORDER FORM THAT INCORPORATES THIS AGREEMENT, CUSTOMER ACCEPTS AND AGREES TO THESE TERMS.

IF YOU DO NOT WISH TO AGREE TO THESE TERMS OF USE, YOU MAY NOT USE IT.

1 Definitions

The following words, terms and/or phrases shall have the meanings set forth thereafter.

- a) “Documentation” means THE SERVICE description, manuals and other related sales and technical documentation, provided to CUSTOMER by Imagicle;
- b) “Reseller” means any entity that submits a Sales Order and purchases a License for the purpose of resale to another user;
- c) “Service Provider” shall mean any entity that offers hosted software and services to CUSTOMER’s, such as web hosting, hosted applications, messaging, collaboration and platform infrastructure;
- d) “Sales Order” means a completed version of Imagicle’s standard form of sales order for THE SERVICE, or other form of order acceptable to Imagicle, that has been submitted to Imagicle by the CUSTOMER directly or by means of a Reseller, or a Service Provider;
- e) “Services” means the hosting service provided by the Service Provider to its SP End Users, using the Software (run on servers owned or maintained by the Service Provider);
- f) “SP End Customers” means a third party CUSTOMER of Service Provider using “THE SERVICE” included in the Services provided by the Service Provider;
- g) “Customer Data” means content provided to Imagicle by CUSTOMER via THE SERVICE.
- h) “Digital Channel(s)” means third-party digital messaging platforms and applications, as may be generally made accessible by “THE SERVICE”, for use in exchanging (sending and receiving) Messages with third parties. Examples of Digital Channels includes, but is not limited to, Apple Business Chat, Facebook Messenger, WhatsApp, Telegram (each, a “Social Media Digital Channel”), SMS, web chat and email.

2 Service Description

The Imagicle Conversational AI (“THE SERVICE”) delivers customer interaction automation via chatbot and voicebot from the Imagicle Cloud.

THE SERVICE enables rapid automation of multi-channel customer journeys, making easy for a business enterprise to interact with their customers on multiple channels including voice and DIGITAL CHANNELS, automating orchestration of these interactions with backend systems. A drag-and-drop flow builder allows to build and launch flows that work across channels and systems.

THE SERVICE is hosted and operated by Imagicle, offered through a public multi-tenant access to CUSTOMERS in the Imagicle Cloud.

As part of the receiving services, CUSTOMER will have access to the web portal, through which use and administer THE SERVICE.

THE SERVICE is provided through Imagicle Public Cloud and available via a simple OTT (Over the Top) Internet access to the CUSTOMERS.

The integration with DIGITAL CHANNELS is direct OTT with respective vendor Cloud through their proprietary API.

The integration with voice is through the Imagicle UC Suite, regardless the UC Suite deployment type (On Prem, Hosted, Cloud). The integration allows the Imagicle UC Suite interacting via secure link over Internet with THE SERVICE to execute the designed voice bot flow.

The UC Suite is leveraging the Amazon Web Services (AWS) Speech to Text (STT) and Text to Speech (TTS) based on Transcribe and Polly for voice bot capabilities.

The integration for the On Prem and Hosted UC Suite to implement voice interactions requires the UC Suite having a secure outgoing connection opened to the Imagicle Cloud (https://*.imagicle.com and <https://.imagicle.cloud>) and to Amazon Web Services (AWS) (https://*.amazonaws.com), direct or via a proxy.

CUSTOMER will be solely responsible, at its own expense, for acquiring, installing and maintaining all hardware, software and other equipment as may be necessary for them to connect to, access, and use THE SERVICE under this Agreement.

CUSTOMER acknowledges that the operation of THE SERVICE is dependent on the networks, services and facilities of third parties (e.g., telecommunications providers), and that Imagicle has no responsibility or liability for the failure of THE SERVICE due to the failure of any such third-party networks, services or facilities.

THE SERVICE may also be integrated with third-party products. Examples of third party products types includes, but is not limited to: databases, CRMs, Email servers, storage areas.

Imagicle is not responsible for CUSTOMER DATA once it leaves Imagicle Cloud for a non-Imagicle product. Protection of data within the applicable third-party system is governed by the contract(s) and policies of the applicable third party.

3 Use of the service

Subject to the terms and conditions of this Agreement, Imagicle will provide to CUSTOMER a subscription to access and use THE SERVICE solely for CUSTOMER's business operations in accordance with the Documentation.

CUSTOMER may not sublicense or transfer these rights except as permitted under the Assignment section of the Agreement.

As set forth in the applicable Order Form, the Service will be provided for a specified subscription period (subject to the termination provisions in this Agreement). CUSTOMER shall pay the subscription fees for the Service as set forth in the Order Form. CUSTOMER's ability to access and use the Service shall be subject to CUSTOMER's compliance with the terms of this Agreement and CUSTOMER's receipt and use of applicable access credentials provided by Imagicle.

CUSTOMER agrees that CUSTOMER's acquisition of a subscription to the Service was not made in reliance on an expectation that the Service will add additional functionality in the future, or on any statements made by Imagicle regarding possible future functionality.

CUSTOMER using one or more DIGITAL CHANNELS, is subject to Terms and Conditions of the DIGITAL CHANNEL third party vendor and understands that such third party vendor may have access to data exchanged through the DIGITAL CHANNEL platform.

4 Support and Updates

Imagicle will provide support for THE SERVICE as set forth at www.imagicle.com/support. Imagicle may provide updates or modifications to THE SERVICE and Documentation from time to time, in which case earlier versions of THE SERVICE and Documentation will no longer be accessible.

5 Property ownership

CUSTOMER acknowledges and agrees that it does not acquire any right, title or interest in or to any of THE SERVICE or the Documentation or any intellectual property rights therein, except the right to use them pursuant to the terms and conditions of this Agreement.

Intellectual Property Rights means all trade secrets, patents and patent applications, trademarks (whether registered or unregistered and including any goodwill acquired in such trademarks), service marks, trade names, copyrights, moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, any application for the foregoing, and all rights to enforce the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world;

6 Datacenter and Service availability

THE SERVICE is operated via Amazon Web Services (AWS) instances in US, Europe and Middle East, based on CUSTOMER choice.

All facilities used to store and process applications and Customer Data will adhere to reasonable security standards.

Imagicle has implemented industry standard systems and procedures to:

- I. ensure the security and confidentiality of an Applications and Customer Data,
- II. protect against anticipated threats or hazards to the security or integrity of an Applications and Customer Data
- III. protect against unauthorized access to or use of Applications and Customer Data.

Imagicle will make the Service available for Customer's based High availability model, with call processing, DB and web UI, deployed on 2 different availability zones in the same region.

In case of failure on the AWS availability zone, there are no service interruption, with RTO and RPO equal to 0. In the remote case of a fail in a full AWS region, the RTO for Disaster Recovery is 8 hours.

7 Personal Data Processing

With regard to the European Union's General Data Protection Regulation ("GDPR"), CUSTOMER agrees that CUSTOMER acts as a Controller (as defined in GDPR) and Imagicle acts as Processor.

Subject to CUSTOMER's compliance with its representations and warranties herein, with regard to European Union (EU) User Data, Imagicle will:

- process EU User Data on CUSTOMER's instructions and actions initiated within THE SERVICE, set forth in this Agreement;
- maintain EU User Data for as long as needed to provide THE SERVICE;
- ensure that persons authorized to process the EU User Data have committed themselves to confidentiality;
- take the technical and organizational measures to comply with Imagicle's information technology security policies;
- assist CUSTOMER by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of CUSTOMER's obligations to data subjects;
- assist CUSTOMER in ensuring compliance with the obligations pursuant to GDPR Articles 32 to 36 taking into account the nature of processing and the information available to Imagicle;
- at CUSTOMER's choice, delete or return all EU User Data in its possession no later than one hundred eighty (180) days following the end of the provision of THE SERVICE, unless Union or Member State law requires storage of the EU User Data;
- make available to CUSTOMER all information reasonably necessary to demonstrate compliance with Imagicle's obligations to CUSTOMER under these above provisions.

The table below lists the personal data of CUSTOMER end users processed by Imagicle to provide THE SERVICE.

Personal data Category	Type of personal data	Purpose of processing
User Information	<ul style="list-style-type: none"> Name and Aliases Email Address Phone Number, Directory Extension, Direct Line Credentials - User ID, Password, PINs Cookies Company Name Company Contact Name and Title Company Physical Address Company Time Zone Company Credentials for external services (ex: email account) Contact List (Names, numbers, emails, titles, Speed dials) 	<p>We use Registration Information to:</p> <ul style="list-style-type: none"> Deliver and provide operational support for THE SERVICE Display identity to other users Authenticate and authorize access
User Generated Data	<ul style="list-style-type: none"> Chat messages and attachments Content uploaded or shared Voice conversations 	To provide the Service
System Generated Data	<ul style="list-style-type: none"> Call data records Call details Call metadata 	To Enable product operations and functionality

8 Sub-processors

Imagicle partners with service providers that act as sub-processors and contract to provide the SERVICE, with same level of data protection and information security that you can expect from Imagicle. A current list of sub-processors for the service is below:

Personal data Category	Type of personal data	Purpose of processing	Data center location
Amazon Web Services (AWS)	<ul style="list-style-type: none"> • Host and Usage Information • System Generated Data • User-Generated Data 	AWS cloud infrastructure is used to host THE SERVICE and leverage the AI services for Speech to Text (STT) and Text to Speech (TTS).	US Europe (Frankfurt) Middle East (Dubai)

9 Term and Terminations

This Agreement shall begin upon the earlier of CUSTOMER's acceptance of this Agreement or CUSTOMER's use of THE SERVICE and shall continue until the subscription granted in accordance with this Agreement has expired or been terminated.

Upon the expiration or termination of CUSTOMER's subscription, CUSTOMER shall cease all use of THE SERVICE.

CUSTOMER acknowledges that its ability to access or use THE SERVICE may be automatically disabled upon the expiration or termination of CUSTOMER's subscription.

CUSTOMER acknowledges that THE SERVICE may include technological means of determining compliance with this Agreement, and disabling THE SERVICE in the event of the breach or the termination of this Agreement. Imagicle may terminate this Agreement immediately, without judicial intervention or prior notice to CUSTOMER, if CUSTOMER fails to comply with any term of this Agreement. For clarity, the termination of this Agreement will result in the termination of any then-current subscription. Upon the expiration or termination of CUSTOMER's subscription, CUSTOMER shall immediately uninstall and delete all copies of any Installed Technology in the form of software and stop use of all Installed Technology in the form of hardware.

10 Indemnifications

CUSTOMER agrees to indemnify, defend and hold Imagicle and its affiliates, officers, agents, employees, service providers and suppliers harmless from any claim or demand, including reasonable attorney's fees, made by any third party due to or arising out of :

- a) User Data or Content,
- b) CUSTOMER's or Users' use of the Service,
- c) CUSTOMER's breach of this Agreement.

Imagicle may participate in the defense of any indemnifiable claim with counsel of Imagicle, at Imagicle's own expense; provided, however that if CUSTOMER fails to provide a defense pursuant to the terms of this paragraph, such legal fees shall be at CUSTOMER's expense. CUSTOMER will not enter into the settlement of any indemnifiable claim without the prior written consent of Imagicle, not to be unreasonably withheld.

In addition Imagicle will not be liable for any damages in connection with or relating to:

- a) CUSTOMER faulty receipt, suspension or failure in the distribution, delivery or suspension of Messages on Digital Channels,
- b) CUSTOMER failure to obtain necessary consents from third parties to access and/or process Digital Channels Data; and c. use and/or processing of Digital Channels Data processed through Digital Channel(s).

11 Warranties and limitations of liability

Imagicle undertakes to comply with high-quality standards in the Services to the CUSTOMER. Imagicle will not be responsible for interruptions, delays, and malfunctions in the provision of the Products/Services deriving from the CUSTOMER's breaches or from the application of specific laws or regulations.

Moreover, Imagicle will not be responsible for, and no liability shall result to Imagicle for any damage, lost profits, losses or costs incurred which result from unforeseeable circumstances or force majeure without prejudice to the terms established by mandatory provisions of the law. In case of Imagicle ascertained responsibility, the CUSTOMER will be entitled to a refund as that can not exceed the subscription fee paid by the CUSTOMER in the last 12 months. The entity and payment method of any refund to the CUSTOMER will be established on a case-by-case basis.

12 Assignment

The CUSTOMER hereby expressly consents Imagicle to assign this Agreement to any subsidiary and/or in the event of a merger or sale of all or substantially all of the stock assets of Imagicle without further CUSTOMER consent.

Imagicle will however notify the CUSTOMER in case of assignment.

Neither this Agreement nor any rights granted hereunder, nor the use of any of THE SERVICE may be assigned, or otherwise transferred, in whole or in part, by the CUSTOMER without Imagicle's written consent. If CUSTOMER assigns the Agreement in conflict with the provisions above, Imagicle may terminate this Agreement with immediate effect.

Subject to this Agreement, during the Term, CUSTOMER may use THE SERVICE and integrate THE SERVICE into any Application that has material value independent of the Services (ex: Managed Services and Telecommunications providers).

In such a case, the CUSTOMER that is providing THE SERVICE as part of its Services may sublicense or transfer these rights to its SP End Customers.

13 Acceptable use policy

THE SERVICE may not be used in any illegal, abusive or other manner that interferes with the business or activities of any other party. The following list gives examples of prohibited. This list is provided by way of example and should not be considered exhaustive.

- Attempting to bypass or break any security mechanism on any of the Services or using the Services in any other manner that poses a security or service risk to the Service or any of its users.
- Testing or reverse-engineering the Services in order to find limitations, vulnerabilities or evade filtering capabilities.
- Launching or facilitating, whether intentionally or unintentionally, a denial of service attack on any of the Services or any other conduct that adversely impacts the availability, reliability or stability of the Services.
- Transmitting any material that contains viruses, trojan horses, worms or any other malicious, harmful, or deleterious programs.
- Engaging in any unsolicited advertising, marketing or other activities, including, without limitation, any activities that violate anti-spam laws and regulations.
- Using Services to engage in fraudulent activity with respect to third parties.
- Violating or facilitating the violation of any local or foreign law, including laws regarding the transmission of data or software.
- Transmitting any material that infringes the intellectual property rights or other rights of third parties.
- Transmitting any material that is libelous, defamatory, discriminatory or otherwise malicious or harmful to any person or entity.

If CUSTOMER becomes aware that any Application, Project, or CUSTOMER Data violates the Acceptance Use Policy, CUSTOMER will immediately suspend the Application or Project and/or remove the relevant CUSTOMER Data (as applicable).

If CUSTOMER fails to suspend or remove as noted in the prior sentence, Imagicle may specifically request that CUSTOMER do so. If CUSTOMER fails to comply with Imagicle's request to do so within twenty-four hours, then Imagicle may disable the Project, Data or Application, and/or disable the Account/Tenant (as may be applicable) until such violation is corrected.

14 Governing law, compulsory arbitration, jurisdiction

Before requesting a court of law, Imagicle intends to resolve any dispute by Arbitration. All contracts are stipulated by Imagicle Spa with registered office in Italy, and Italian law applies to them. For any dispute concerning the interpretation and execution of this Contract, if the arbitration has not been resolved and the court is appealed, the Italian courts will be appointed.

15 Consent to cookie installation

Cookies are used while using THE SERVICE or browsing any of the websites where our Services are installed.

These are pieces of information sent by the server, stored on a user's computer for the purpose of automatic identification of a particular user when using our Services.

Cookies enable us to quickly confirm users' identity and owing to them the use of THE SERVICE becomes much easier and more widely available.

Cookies are used by Imagicle solely with the purpose of personalizing a particular user and can be used on condition that they are accepted by a browser and that they shall not be removed from the storage media.

Users who removed cookies from their storage media or have not accepted them on their browser may not have access to THE SERVICE.

The use of third-party cookies is not covered by our Privacy Policy. We do not have access or control over these cookies.

16 Contacts

For any questions or clarifications on Imagicle Terms, Licensing Agreements, Products, and Services, CUSTOMER can contact Imagicle at legal@imagicle.com.